

REMARKS

The present Amendment amends claims 8, 14 and 21 and leaves claims 2-7, 9-13 and 15-20 unchanged. Therefore, the present application has pending claims 2-21.

Applicants note that the Examiner did not indicate consideration of the January 29, 2004 Information Disclosure Statement. Attached herewith is a copy of the January 29, 2004 Information Disclosure Statement. An indication that the January 29, 2004 Information Disclosure Statement has been considered is respectfully requested in the forth coming Office Action.

Claims 8, 14 and 21 stand rejected under 35 USC §112, first paragraph, as allegedly failing to comply with the written description requirement. Particularly, the Examiner alleges that the recitation of transmission of the second channel in parallel with transmission of the first channel is not described in the specification as originally filed. Applicants submit that this feature of the present invention was in fact described in the originally filed specification and illustrated in the drawings thereof. Thus, the present application fully complies with the written description requirement of 35 USC §112, first paragraph. Therefore, reconsideration and withdrawal of this rejection is respectfully requested.

The feature of the present invention where transmission of the second channel is performed in parallel with transmission of the first channel is described, for example, in passage of the originally filed specification beginning on page 8, line 26 through page 9, line 5 and illustrated in Figs. 1 and 13. The above noted passage of the originally filed specification describes that the transmission signals are added and converted to the

transmission frequency band signals together with the pilot signals. As is clearly illustrated in the drawings and as encompassed by the above noted passage of the present application, transmission of the second channel in parallel (together) with the first channel was fully described in the originally filed specification.

However, in order for the language in the claims to more closely correspond to the language used in the specification, amendments were made to claims 8, 14 and 21 so as to recite that the second channel is transmitted together with the first channel.

Thus, the language now used in the claims is fully described in the originally filed specification. Therefore, claims 8, 14 and 21 comply with the written description requirement of 35 USC §112, first paragraph. Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

Claims 2-7, 9-13 and 15-20 stand rejected under the judicially created doctrine of obviousness type double patenting as being unpatentable over claims 1, 3 and 5 of prior patent No. 6,628,635. Applicants do not agree with this rejection. However, in order to expedite prosecution of the present application, filed on even date herewith is a Terminal Disclaimer obviating this rejection. Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

It should be noted that the filing of the Terminal Disclaimer was not intended nor should it be considered as an agreement on Applicants part that the features recited in claims 2-7, 9-13 and 15-20 are taught or suggested by claims 1, 3 and 5 of the prior patent. The filing of the Terminal Disclaimer was simply intended to expedite prosecution of the present application.

In view of the foregoing amendments and remarks, applicants submit that claims 2-21 are in condition for allowance. Accordingly, early allowance of claims 2-21 is respectfully requested.

To the extent necessary, the applicants petition for an extension of time under 37 CFR 1.136. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, or credit any overpayment of fees, to the deposit account of MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C., Deposit Account No. 50-1417 (500.33482CX5).

Respectfully submitted,

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